



UTAH DEPARTMENT OF TRANSPORTATION

R E G U L A T I O N S

GOVERNING
CLASS B & CLASS C
ROAD FUNDS

Program Development

July 2001

Utah Department of Transportation

<u>Region/District</u>	<u>Contact</u>	<u>Address</u>	<u>Phone</u>
Region One Box Elder, Cache, Davis, Morgan. Rich, Weber	Ahmad Jaber Region Director	169 North Wall Avenue P.O. Box 12580 Ogden UT 84412	(801) 399-5921 ext. 300 Fax 399-5926
Region Two Davis, Salt Lake, Summit, Tooele	John Bourne Region Director	2010 South 2760 West Salt Lake City UT 84104-4592	(801) 975-4844 Fax 975-4841
Region Three Daggett, Duchesne, Juab, Uintah, Utah, Wasatch	Traci Conti Region Director	825 North 900 West Orem UT 84057	(801) 227-8001 Fax 227-8049
Region Four Cedar City District Price District Richfield District	Dal Hawks Region Director	1345 South 350 West P.O. Box 700 Richfield UT 84701	(435) 893-4700 Fax 896-6458
Cedar City District Beaver, Iron, Millard, Washington	Scott Munson District Engineer	1470 North Airport Road P. O. Box 1009 Cedar City UT 84721-1009	(435) 865-5505 Fax 865-5564
Price District Carbon, Emery, Grand, San Juan	Kleston Laws District Engineer	940 So. Carbon Ave. Price UT 84501-0903	(435) 636-1400 Fax 636-1471
Richfield District Garfield, Kane, Piute, Sanpete, Sevier, Wayne	Ross Christensen District Engineer	708 South 100 West Richfield UT 84701	(435) 896-1300 Fax (801) 965-4804
Local Government Liaison Unit	George Thompson Local Government Programs Engineer	UDOT, Prog. Development 4501 South 2700 West Box 143600 Salt Lake City UT 84114-3600	(801) 965-4366 Fax 965-4551

TABLE OF CONTENTS

Section I	
HISTORY OF CLASS B & C ROAD PROGRAM	1
Section II	
DEFINITIONS.....	2
Section III	
RULES AND PROCEDURES	4
Section IV	
USES OF CLASS "B & C" FUNDS	6
Section V	
RESPONSIBILITIES.....	7
1. THE UTAH TRANSPORTATION COMMISSION	7
2. THE UTAH DEPARTMENT OF TRANSPORTATION.....	7
3. LOCAL AUTHORITY.....	9
Section VI	
ELIGIBILITY REQUIREMENTS FOR CLASS B & CLASS C ROADS AND STREETS.....	10
Section VII - APPENDIX	
STATUTORY PROVISIONS RELATING TO "B & C" FUNDS.....	12

Section I

HISTORY OF CLASS B & C ROAD PROGRAM

The Class B & C road system with a funding program was established by the Utah Legislature in 1937 as a means of providing assistance to counties and incorporated municipalities for the improvement of roads and streets throughout the State.

The funds differ from ordinary local revenues inasmuch as they are subject to administrative direction by the State in accordance with legislative provisions. The Utah Department of Transportation is the administrative authority on behalf of the State. The procedures and regulations are designed to function by mutual accord among all agencies concerned. They have the approval and the endorsement of both the Utah Association of Counties and the Utah League of Cities and Towns and are looked upon as measures necessary in the perpetuation of the annual allocations that are so vital to each local authority in meeting ever increasing traffic demands. Commendable accomplishments have been made in the use of Class B & C funds due to the continued cooperation extended by the individual agencies.

In accordance with changes passed by the 1982 Legislature, the Collector Road Program was eliminated on June 30, 1982. The funds previously allocated to that program were added to the B & C program funds. At the request of the counties and municipalities the formula for the distribution of the B & C funds among the counties and municipalities was also modified by the 1982 State Legislature.

In the 1997 legislature, the B & C distribution formula was changed to apportion money 50% to population and 50% to weighted road miles. The road miles were weighted at a 5 for a paved road mile, a 2 for a graveled road mile and a 1 for any other type of road mile.

In the 1998 legislature, the Transportation Code was moved from Section 27 of the Utah Code to Section 72.

Much of the correspondence and all field duties associated with the administration of Class B and Class C road funds are handled by the Utah Department of Transportation, Office of Program Development, Local governments Project Engineer=s Section.

As the Administrative Agent, the Utah Department of Transportation stresses the importance of Class B & C road funds and is willing at all times to cooperate to the fullest extent possible with each agency. Agencies should be aware that these monies are intended for, and are limited to, construction and maintenance of county roads and municipal streets. They are never to be used as a supplement to other fund accounts.

Section II

DEFINITIONS

1. Alleys: Those publicly owned passageways, regardless of width, that were established more as a necessary convenience for adjoining property owners than for a free movement of ordinary two wheel drive vehicular travel. They are typically used for garbage collection, access to private garages and rear entrances to commercial establishments.
2. Bid Limit: As defined in Utah Code 72-6-108, all projects in excess of \$100,000 (Utah Code 72-6-109(1)(a)) shall be performed under contract to be let to the lowest responsible bidder. Therefore the bid limit is \$100,000.
3. Class B & C Roads: All public highways, roads or streets that are traveled ways under the jurisdiction of, and maintained to a minimum standard or higher (as defined in Section VI. 2. A.) by a county or incorporated municipality, over which a conventional two-wheel drive vehicle may travel. (See Utah Code 72-3-103 and 72-3-104)
4. Class B & C Road Fund: With the exception of the diversions provided for in Utah Code 72-2-103 and the increased registration fees as provided in Utah Code 41-1a-1201(6), 25% of the state highway user taxes and fees are allocated to the B & C Roads Account. Also, 1/16% of the state sales tax is allocated directly to the account (See Utah Code 59-12-103(5)(g&h)). This is a restricted account to be used for the construction and maintenance of eligible county roads and municipal streets. (See Utah Code 72-2-107)
5. Construction: The definition is as listed in the Utah Code 72-6-109(1)(b)(i). Construction means the work that would apply to:
 - (a) any new roadbed either by addition to existing systems or relocation;
 - (b) resurfacing of existing roadways with more than two inches of bituminous pavement; or
 - (c) new structures or replacement of existing structures, except the replacement of drainage culverts.

This work includes the supervising, inspecting, actual building and all expenses incidental to the construction of a structure or road; including but not limited to, right-of-way, engineering, earthwork, structures, graveling, oiling, pedestrian facilities, paving, drainage, fence replacements and relocation of ditches.

Construction does not include maintenance, emergency repairs, or the installation of traffic control devices as described in Utah Code 41-6-20(1.).
6. Improvement Project: Construction and maintenance as defined in Utah Code 72-6-109(1) except:
 - (a) the repair of less than the entire surface by crack sealing or patching; and
 - (b) road repairs incidental to the installation, replacement, or repair of water mains, sewers, drainage pipes, culverts, or curbs and gutters.
7. Local Authority: A county or municipality

8. **Maintenance**: The definition is as listed in the Utah Code 72-6-109(1)(d). Maintenance is defined as:
- (a) the reworking of an existing surface by the application of up to and including two inches of bituminous pavement;
 - (b) the installation or replacement of guardrail, seal coats and culverts;
 - (c) the grading or widening of an existing unpaved road or flattening of shoulders or side slopes to meet current width and safety standards; and
 - (d) horizontal or vertical alignment changes necessary to bring an existing road in compliance with current safety standards.

In general terms, maintenance shall mean the keeping of a road facility in a safe and usable condition to which it has previously been constructed or improved.

9. **Municipality**: An incorporated city or town in Utah
10. **Project**: As defined in Utah Code 72-6-109(1)(e). "Project" means the performance of a clearly identifiable group of associated road construction activities or the same type of maintenance process, where the construction or maintenance is performed on any one Class B or C road, within a half-mile proximity and occurs within the same calendar year.
11. **Surface-Type Classifications**: Based upon the language contained in Utah Code 72-2-108, surface types to be used for funding are further defined as follows:

Paved Road mileage shall include:

- (a) concrete
- (b) bituminous surface of any thickness
- (c) graveled roads with a chip seal surface
- (d) recycled asphalt

Graveled Road mileage shall include roads that have all of the following features:

- (a) An improved and surfaced sub-grade
- (b) A wearing surface of gravel, broken stone, slag, iron ore, shale or other material that is courser than sand.
- (c) Drainage using transverse and/or longitudinal drainage systems which serve to prevent serious impairment of the road by surface water.

Other Road mileage shall consist of all other roads which meet eligibility requirements as outlined in Section VI, including:

- (a) undrained graveled roads
- (b) graded and drained dirt (natural earth surfaced) roads
- (c) graded but otherwise unimproved roads which may be slippery or prone to rutting when wet.

12. **Transportation Fund**: The fund defined in Utah Code 72-2 established for exclusive use for highways.
13. **UDOT**: The Utah Department of Transportation

Section III

RULES AND PROCEDURES

The program to use Class B & C Funds shall be conducted according to all State Statutes that apply. The following information is provided for clarification and implementation of the statutes.

1. RULES

- A. Class B & C funds may be used only for construction, maintenance and highway related purposes on eligible B & C roads (see Section II for definitions and Section IV for uses). Except under emergency conditions, all equipment purchased with B & C funds must be used on public roads only.
- B. All construction plans, specifications and estimates required by Section 72-6-108(1) of the Utah Code and all construction work shall be prepared and performed under the direct supervision of a registered professional engineer who shall certify to the county governing board or the governing officials of the municipality that all road construction projects conform to design and construction standards as currently adopted by the American Association of State Highway and Transportation Officials.
- C. Cost of Improvement projects performed by force account shall be accounted for following Utah Code 72-6-109(3)(b).
- D. All projects whose costs exceed the bid limit as defined in Utah code 72-6-109(2), shall meet the bidding requirements as set forth in Utah Code 72-6-109.
- E. Approval shall be required from the UDOT Region Director or District Engineer to use B & C funds on State Highways, for any permitted purpose.
- F. Any local authority desiring to allow its Class B & C road funds to accumulate until such time as sufficient funds are available for more extensive road projects, can invest said monies in accordance with the Utah State Money Management Act (Utah Code 51-7). Any and all interest thus earned is to be credited to the local authority Class B & C road fund account.
- G. The acceptance by a local authority of monies from the B & C road fund constitutes an agreement to use the funds according to all laws and regulations that apply. The failure of any local authority to comply with the laws, regulations and procedures regarding Class B & C road funds will constitute a breach of contract and the UDOT shall have the authority, at its discretion, to withhold subsequent allocations in each instance until compliance with all laws and regulations has been accomplished.
- H. The local authority shall meet audit requirements set forth in the Utah Code 51-2. This audit shall address compliance with the laws and regulations governing class B & C road funds.
- I. The local authority may issue bonds against class B & C road fund revenues up to a 10 year period. (Utah Code 72-2-108(6)).

2. PROCEDURES

- A. B & C road funds shall be distributed by the following formula: 50% based on the population ratio of the local jurisdiction with the population of the state, 50% based on the ratio that the class B roads weighted mileage within each county and the class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state. Weighted means the sum of the following: (i) paved road miles multiplied by five; (ii) graveled road miles multiplied by two; and (iii) all other road type road miles multiplied by one. (Utah Code 72-2-108)
- B. Population figures utilized in allocating B & C funds shall be based on the most recent census figures as set forth in Utah Code 72-2-108(2).
- C. Mileage by surface-type figures which are to be used for funding shall be provided to UDOT by all counties and municipalities. The governing body of each local authority shall appoint an appropriate individual to certify that all mileage submitted for funding purposes meets eligibility requirements as outlined in Section VI, and that the mileage included in a specified surface type meets the definition of that surface type, both as outlined in these regulations. The certified mileage by surface-type shall be submitted to the supervisor of the road inventory program in the Office of Program Development in UDOT along with a hard copy map which will document location of all mileage by surface type as claimed in the submittal document. Counties and municipalities may revise mileage figures in this manner no more than once per year.
- D. The UDOT Planning Statistics Section shall have the authority to make final determinations as to eligibility of specific roads and streets. UDOT shall execute field reviews, when necessary, to resolve any dispute which brings mileage eligibility into question, and shall conduct other random field surveys to promote adherence to regulations. UDOT will inform local authorities in writing of any mileage which is found to be out of compliance with regulations and advise them of corrective action needed. After receipt of such notification, the local authority will have at least 30 days to apply corrective action before the surface type of any Class B or Class C mileage is reclassified or any ineligible mileage is removed from the allocation by UDOT.
- E. Alleys are not eligible to be included in the mileage for fund allocation.

Section IV

USES OF CLASS "B & C" FUNDS

1. Permissible Uses

Including but not limited to the following:

- A. All construction and maintenance on eligible Class B & C roads
(Utah Code 72-3-103 to 72-3-104)
- B. Sidewalks, curb and gutter (on all eligible B & C roads and state highways), safety features, traffic signals, traffic signs, and construction of bicycle facilities in the highway right-of-way.
(Utah Code 72-8)
- C. Investments for interest purposes (interest to be kept in fund)
- D. Equipment purchases or equipment leases and rentals
- E. Engineering and Administration
- F. Future reimbursement of other funds for large construction projects
- G. Rights of Way acquisition, fencing and cattle guards
- H. Matching Federal Funds.
(Utah Code 72-2-110)
- I. Equipment purchased with B&C funds may be leased from the road department to another department or agency using the rental rate established by the current "Cost Reference Guide for Construction Equipment", distributed by K-3 Directory Corp., 1735 Technology Dr., San Jose, California, 95110, Phone: 1-800-669-3282.
- J. Construction of road maintenance buildings, storage sheds, and yards. Multiple use facilities may be constructed by mixing funds on a proportional basis.
- K. Construction and maintenance of alleys (see definition of alleys in Section II-1)

2. Non-Permissible Uses

Including but not limited to the following:

- A. Non road uses
- B. Police Costs
- C. To pay for rental on equipment which was previously purchased with B & C road funds

Section V

RESPONSIBILITIES

1. The Utah Transportation Commission

- A. The Utah Transportation Commission receives appeals from administrative actions.

2. The Utah Department Transportation

A. General

- (1) In cooperation with county and municipal officials, The Utah Department of Transportation promulgates rules and procedures covering the Class B & C road program.
- (2) To apportion Class B funds to counties and C funds to municipalities in accordance with the formula provided by law. (Utah Code 72-2-108)
- (3) To make and mutually adopt with counties and municipalities rules and procedures for expenditures of these funds. (The "Joint Highway Committee" represents all counties and municipalities).
- (4) To cooperate with the officials of counties and municipalities to put into effect the provisions of the law. (Utah Code 72-2-208)

B. Assignments

For the purpose of handling the affairs of the Class B & C road fund, certain offices, units and divisions of the UDOT have been assigned particular duties as follows:

(1) Region and District Offices

Each Region and District Office shall randomly check completed projects to assure responsible use of the funds.

(2) Central Office

- (a) Office of Program Development, Planning Statistics - As frequently as the law allows (Utah Code 72-2-107(3)), the division will prepare the Class B & C allocation list using the prescribed formula. Upon request, UDOT will provide information as to the population and mileage by surface-type used in the distribution formula. UDOT will calculate the portion of B & C funds each county and municipality receives per allocation, and that amount will be electronically transferred into individual local authority accounts in the Public Treasure Investment Fund, maintained by the Office of State Treasurer. The money in each local authority account will earn interest until it is withdrawn.

- (b) The UDOT Planning Statistics Section will collect documents in the form of certified mileage by surface-type and corresponding maps which have been submitted by counties and municipalities for the purpose of updating Class B and C figures. UDOT shall use figures as certified to calculate the Class B or Class C allocation for each local authority, with exception as stated in part (c). Revised figures shall be reflected in the allocation within 45 days of submittal.
- (c) The UDOT Planning Statistics Section shall have the responsibility and authority to make final determinations as to eligibility and/or surface type classification of each road. Maps received from entities for purposes of Class B or Class C documentation will be examined for obvious flaws such as inclusion of roads under UDOT jurisdiction, and any ineligible mileage will be removed from the appropriate surface-type category for the local authority. UDOT shall also execute field reviews as necessary to resolve any dispute which brings mileage eligibility into question, and shall conduct other random field surveys to promote adherence to regulations. UDOT will make adjustments to the allocation based on findings of compliance during field surveys according to procedure described in section III.2.D.
- (d) UDOT will develop and make available standardized maps identifying eligible Class B & C roads.
- (e) Comptroller Division - This office makes proper record of all authorized distributions.
- (f) Local Government Liaison Unit - This unit is responsible for the administration of the B & C program and is available to assist all counties and municipalities.
- (g) The UDOT makes no guarantee of the availability of future fund allocations and assumes no financial responsibility in that regard.

3. LOCAL AUTHORITY

A. General

- (1) The local authority shall become acquainted with and follow all rules, procedures and law regarding the use of B & C road funds.
- (2) The local authority will select and complete projects using B & C road funds.
- (3) B & C road funds shall be deposited and accounted for in accordance with the State of Utah Uniform Accounting Manual.
- (4) Class B and Class C roads and streets shall be maintained to a minimum standard (See section VI.2.A.) or higher.

- (5) Local authorities shall furnish to UDOT certified mileage by surface-type which shall be used as a basis for the allocation of Class B and C funds, as outlined in Section III.2.C. They shall also furnish, upon request by UDOT, any information at their disposal which will assist UDOT in creating and updating the map base within the UDOT GIS (Geographic Information System) which will then be used as a basis for documentation and reporting of Class B and C mileage by surface-type. The type of information needed may include:
- (a) Electronic data base (CADD) drawing referenced with State Plane Coordinate system, coordinates in lat/long, or Township, Range and Section; containing road centerlines, road classifications (jurisdictional and private status), surface-types and corporate boundaries.
 - (b) Copies of alignment drawings for new road construction or recorded plats for new developments containing eligible streets which have been constructed.
 - (c) Copies of annexation documents which have been filed and recorded with the county recorder's office. These documents shall contain legal descriptions which refer to Township, Range and Section, State Plane Coordinate system or coordinates in lat/long. Documents which identify only lots, blocks or property lines (as are often used in "farm surveys") cannot be used to update the map base for the UDOT GIS.

B. Assignments

The local authority shall make definite assignments for reporting and using B & C road funds.

C. Audits

The local authority shall provide for the financial and compliance audits of the class B & C Road funds as required by the Utah Code Chapter 51-2. A copy of the required audit report and management letter/financial statement or financial report submitted to the State Auditor's Office, shall be sent to the B & C Administrator within 6 months of the end of their fiscal year.

Section VI

ELIGIBILITY REQUIREMENTS FOR CLASS B AND CLASS C ROADS AND STREETS

1. Jurisdiction Requirements

A. Local Jurisdiction of Public Roads and Streets

- (1) UDOT shall recognize claim of jurisdiction over any road, with exception of roads traversing National Forest land, by either a declaration of local governing officials or certification by a representative empowered with this authority by local governing officials.

B. Public Roads Inside National Forest Boundaries

- (1) UDOT recognizes a county or municipal claim of jurisdiction of any public road through private land within National Forest boundaries with no additional documentation.
- (2) UDOT requires a copy of the document with the National Forest Service granting jurisdiction (including temporary with renewable option) of any road passing through National Forest lands to a county or municipality for these roads to be eligible.

2. Eligibility of Public Roads and Streets

A. Maintenance Requirements

Class B and Class C roads and streets shall be maintained to a minimum standard or higher. The minimum standard shall include keeping the roadway free from such obstructions as excessive high centers, overgrowth of vegetation, and washouts. Roads which are classified as a surface-type of "Other" in Section II.11. shall be graded on a regular basis to meet this requirement.

B. Gates

Unlocked gates are permitted on eligible roads only if approved by the county governing board for a county road or by the municipal council if a municipal street. Any road or portion of road restricted to the public by a privately locked gate shall be ineligible.

(Utah Code 72-7-106)

C. Restrictive Signing

Any signing which restricts use of a public road shall cause the road or that portion which is restricted to be ineligible. Examples of restrictive signing shall include (but not be limited to):

- (1) Any sign which implies that the road is private or that it may be used only by authorized personnel.
- (2) Any sign posted on an unlocked gate across a public road, or posted on a gatepost on either side of the gate, which reads "**NO TRESPASSING**", "**PRIVATE PROPERTY**", "**KEEP OUT**", or uses any language or symbol which insinuates that public travel beyond that point is prohibited. It is permissible, however, for these signs to be posted on fences or posts which run parallel to a public road to mark private property.

D. Public or Municipal Park and Cemetery Streets

Roads and streets leading to the entrance of a public park or cemetery are eligible. However, those roads inside of the park or cemetery are ineligible unless they serve as a through street which carries traffic to other destinations.

Section VII**APPENDIX****STATUTORY PROVISIONS RELATING TO "B & C" FUNDS****10-6-102. Legislative Intent - Purpose of chapter.**

This chapter is intended to provide uniform accounting, budgeting, and financial reporting procedures for cities. It is the purpose of this chapter to enable cities to make financial plans for both current and capital expenditures, to insure that their executive staffs administer their respective functions in accordance with adopted budgets, to provide the public and investors with information about the financial policies and administration of cities, to provide for the optional use of performance budgeting and related accounting and reporting procedures, and to enable larger cities to evaluate and measure operating performance and provide data comparable with other cities.

Enacted 1979

17-36-1. Title.

This act shall be known and may be cited as the "Uniform Fiscal Procedures Act for Counties."

17-36-2. Purpose of Chapter.

The purpose of this act is to codify and revise the law relating to county fiscal procedures in order to establish uniform accounting, budgeting, and financial reporting procedures for all counties. The act provides for the establishment of uniform procedures for the adoption and administration of fiscal and optional performance budgets.

The act is intended to enable counties to make financial plans for both current and capital expenditures, to ensure that executive staffs administer their respective functions in accordance with adopted budgets, and to provide taxpayers and investors with information about the financial policies and administration of the county in which they are interested.

Enacted 1983

41-6-20. Manual and specifications for uniform system of traffic-control devices and school crossing guards.

- (1) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the Department of Transportation shall make rules consistent with this chapter adopting a manual and establishing specifications for a uniform system of traffic-control devices for use upon highways within this state.
(b) The manual shall correlate with, and where possible conform to, the system set forth in the 1988 edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways" and other standards issued or endorsed by the federal highway administrator.
- (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the Department of Transportation shall make rules adopting a manual and establishing specifications for a uniform system of traffic-control devices and school crossing guards for school crossing zones, which shall supplement the manual adopted under Subsection (1).

Enacted 1994

41-6-22. Placing and maintenance upon local highways by local authorities.

Local authorities, in their respective jurisdictions, shall place and maintain official traffic-control devices upon highways under their jurisdiction as they find necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances, or to regulate, warn, or guide traffic. All traffic-control devices erected under this section shall conform to and be maintained in conformance with the Department of Transportation manual and specifications for a uniform system of traffic-control devices under Section 41-6-20.

Enacted 1987

51-2-1. Audits of political subdivisions, interlocal organizations and other local entities required.

- (1) (a) Each of the following entities, except as exempted under Section 51-2-8, shall cause an audit to be made of its accounts by a competent certified public accountant:
 - (i) the governing board of each political subdivision;
 - (ii) the governing board of each interlocal organization having the power to tax or to expend public funds;
 - (iii) the governing board of any local mental health authority established under the authority of Chapter 12, Title 62A;
 - (iv) the governing board of any substance abuse authority established under the authority of Chapter 8, Title 62A;
 - (v) the governing board of any area agency established under the authority of Chapter 3, Title 62A;
 - (vi) the governing board of any other entity established by a local governmental unit that receives tax exempt status for bonding or taxing purposes.
 - (vii) the governing board of any other entity established by a local governmental unit that receives tax exempt status for bonding or taxing purposes.
 - (b) In municipalities organized under an optional form of municipal government, the council shall cause the audit to be made.
 - (c) The audit shall be made at least annually.
- (2) The auditors shall review the accounts of all officers of the entity having responsibility for the care, management, collection, or disbursement of moneys belonging to it or appropriated by law or otherwise acquired for its use or benefit.
- (3) The audits shall:
 - (a) be performed and financial statements presented in accordance with generally-accepted auditing standards and accounting principles and procedures adopted by recognized authoritative bodies; and
 - (b) conform to the uniform classification of accounts established or approved by the state auditor or any other classification of accounts established by any federal government agency.
- (4) If the political subdivision, interlocal organization, or other local entity receives federal funding, the audits shall be performed in accordance with both federal and state auditing requirements.

Amended by L. 1998

51-2-2. When audits must be made.

The audit required for any fiscal year shall be completed within six calendar months after the close of the fiscal year.

Enacted 1989

51-2-3. Audit reports - Contents - Preservation.

- (1) (a) Audit reports shall include:
 - (i) the financial statements;
 - (ii) the auditor's opinion on the financial statements;
 - (iii) a statement by the auditor expressing positive assurance of compliance with state fiscal laws identified by the state auditor;
 - (iv) a copy of the auditor's letter to management that identifies any material weakness in internal controls discovered by the auditor and other financial issues related to the expenditure of funds received from federal, state, or local governments to be considered by management; and
 - (v) management's response to the specific recommendations.
- (b) In addition to the items required by Subsection (1)(a), audit reports of political subdivisions receiving direct federal financial assistance shall include:
 - (i) compliance reports;
 - (ii) internal control reports; and
 - (iii) any other reports required by the federal government.
- (2) (a) The governing body of each political subdivision and each interlocal organization or other local entity required to be audited shall:
 - (i) file and preserve all audit reports; and
 - (ii) file copies of all audit reports with the state auditor.
- (b) The governing body of each school district shall also file copies of the audit reports affecting school districts in the office of the superintendent of public instruction.
- (3) Copies of the audit reports are open to inspection during regular office hours by any interested persons, wherever the audit reports are filed.

Enacted 1989

51-2-8. Entities exempt from audit requirements - Report required.

Any political subdivision, interlocal organization or other local entity in which the budget for revenues or expenditures of all funds combined for any fiscal year does not exceed \$150,000, or an appropriate amount established by the Utah state auditor which represents the above noted amount adjusted by economic factors such as inflation but not limited to such factors, may, with the approval of the state auditor, be exempt from the provisions of Section 51-2-1. In such event, its governing body must cause a report on the fiscal affairs of the local entity to be prepared in accordance with regulations and reporting forms prepared and issued by the state auditor, and file that report with the state auditor within six months after the close of each fiscal year of that entity.

Enacted 1981

72-2-107. Appropriation from Transportation Fund - Deposit in class B and class C roads account.

- (1) There is appropriated to the department from the Transportation Fund annually an amount equal to 25% of an amount which the director of finance shall compute in the following manner: The total revenue deposited into the Transportation Fund during the fiscal year from state highway-user taxes and fees, minus those amounts appropriated or transferred from the Transportation Fund during the same fiscal year to the Department of Public Safety, the Tax Commission, the Division of Finance, the Utah Travel Council, and any other amounts appropriated or transferred for any other state agencies not a part of the department.
- (2) All of this money shall be placed in an account to be known as the class B and class C roads account to be used as provided in this title.

(3) Each quarter of every year the director of finance shall make the necessary accounting entries to transfer the money appropriated under this section to the class B and class C roads account.

(4) The funds in the class B and class C roads account shall be expended under the direction of the department as the Legislature shall provide.

Formerly Appeared as 27-12-127; Renumbered by L. 1998

72-2-108. Apportionment of funds available for use on class B and class C roads - Bonds.

(1) For purposes of this section:

(a) "Graveled road" means a road:

(i) that is:

(A) graded; and

(B) drained by transverse drainage systems to prevent serious impairment of the road by surface water;

(ii) that has an improved surface; and

(iii) that has a wearing surface made of:

(A) gravel;

(B) broken stone;

(C) slag;

(D) iron ore;

(E) shale; or

(F) other material that is:

(I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and

(II) is coarser than sand.

(b) "Paved road" includes a gravelled road with a chip seal surface.

(c) "Road mile" means a one-mile length of road, regardless of:

(i) the width of the road; or

(ii) the number of lanes into which the road is divided.

(d) "Weighted mileage" means the sum of the following:

(i) paved road miles multiplied by five;

(ii) graveled road miles multiplied by two; and

(iii) all other road type road miles multiplied by one.

(2) Subject to the provisions of Subsections (3) through (5), funds in the class B and class C roads account shall be apportioned among counties and municipalities in the following manner:

(a) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

(b) 50% in the ratio that the population of a county or municipality bears to the total population of the state as of the last official federal census or the United States Bureau of Census estimate, whichever is most recent, except that if population estimates are not made for a county or municipality by the United States Bureau of Census, population figures shall be determined according to the biennial estimate from the Utah Population Estimates Committee.

(3) For purposes of Subsection (2)(b), "the population of a county" means:

(a) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 14% of the total population of that county, including municipalities; and

- (b) if the population of a county outside the corporate limits of municipalities in the county is less than 14% of the total population:
- (i) the aggregate percentage of the population apportioned to municipalities in that county shall be reduced by an amount equal to the difference between:
- (A) 14%; and
- (B) the actual percentage of population outside the corporate limits of municipalities in that county; and
- (ii) the population apportioned to the county shall be 14% of the total population of that county, including incorporated municipalities.
- (4) (a) If an apportionment under Subsection (2) to a county or municipality is less than 110% of the amount apportioned to the county or municipality from the class B and class C roads account for fiscal year 1996-97, the department shall:
- (i) reapportion the funds under Subsection (2) to ensure that the county or municipality receives an amount equal to 110% of the amount apportioned to the county or municipality from the class B and class C roads account for fiscal year 1996-97; and
- (ii) decrease proportionately as provided in Subsection (4)(b) the apportionments to counties and municipalities for which the reapportionment under Subsection (4)(a)(i) does not apply.
- (b) The aggregate amount of the funds that the department shall decrease proportionately from the apportionments under Subsection (4)(a)(ii) is an amount equal to the aggregate amount reapportioned to counties and municipalities under Subsection (4)(a)(i).
- (5) (a) (i) In addition to the apportionment adjustments made under Subsection (4), a county or municipality that qualifies for reapportioned monies under Subsection (4)(a)(i) shall receive 1/3 of the percentage increase in the class B and C road account for the current fiscal year over the previous fiscal year.
- (ii) Any percentage increase calculated under Subsection (5)(a)(i) may not include any increases from increases in fees or tax rates.
- (b) The adjustment under Subsection (5)(a) shall be made in the same way as provided in Subsection (4)(a)(ii) and (b).
- (6) The governing body of any municipality or county may issue bonds redeemable up to a period of ten years under Title 11, Chapter 14, Utah Municipal Bond Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.

27-12-129; renumbered by L. 1998, ch. 270, ' 51; 1999, ch. 281, ' 1.

Amendment Notes. - The 1993 amendment, effective May 3, 1993, in Subsection (1)(b), deleted "the revenue sharing estimate" after "federal census" in the first sentence, added the second sentence, and made stylistic changes. The 1997 amendment, effective July 1, 1997, added Subsection (1), renumbering accordingly; deleted former Subsection (1)(c), relating to ratio of land area each county or municipality bears to total land area within state; substituted "50%" for "32%" and added "weighted mileage" after "roads" in Subsection (2)(a); substituted "50%" for "54%" in Subsection (2)(b); deleted former Subsection (2), describing what the "land area of each county" meant for purposes of this section; subdivided Subsection (3) into Subsections (3)(a) and (3)(b); added "of the county outside the corporate limits of municipalities in that county" after "if the population" in Subsection (3); substituted "an amount" for "a percentage of population" in Subsection (3)(b)(i) and added "of that county, including incorporated municipalities" in Subsection (3)(b)(ii); added Subsections (4) and (5), renumbering accordingly; and substituted "municipality" for "city or town" and made stylistic changes throughout the section.

The 1998 amendment, effective March 21, 1998, renumbered this section, which formerly appeared as ' 27-12-129, and in Subsection (1) made punctuation and stylistic changes.

The 1999 amendment, effective July 1, 1999, rewrote Subsections (4) and (5).

Severability Clauses. - Section 3 of Laws 1985, ch. 91 provided: "If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this act is given effect without the invalid provision or application."

72-2-109. Rules for uniform accounting - Apportionment and use of class B and class C road funds - Compliance with federal-aid provisions - Duties of department.

(1) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the department shall make rules providing for uniform accounting of funds to be expended upon class B and C roads as required by the federal government under Title 23, United States Code Annotated, relating to federal aid for highway purposes together with all amendatory acts.

(2) The department shall cooperate with the county governing bodies and the governing officials of the cities and towns in the apportionment and use of class B and C road funds.

Formerly Appeared as 27-12-130; Renumbered by L. 1998

72-2-110. Funds allocated to class B and class C roads - Matching federal funds.

Any funds which are hereby allocated to class B and class C roads may be used for matching federal funds for the construction of secondary roads now available or which may hereafter become available in accordance with the provisions of law.

Formerly Appeared as 27-12-131; Renumbered by L. 1998

72-3-103. County roads - Class B roads - Construction and maintenance by counties.

(1) County roads comprise all public highways, roads, and streets within the state that:

(a) are situated outside of incorporated municipalities and not designated as state highways;

(b) have been designated as county roads; or

(c) are located on property under the control of a federal agency and constructed or maintained by the county under agreement with the appropriate federal agency.

(2) County roads are class B roads.

(3) The county governing body has jurisdiction and control of county roads within the county.

(4) The county shall construct and maintain each county road using funds made available for that purpose.

(5) The county legislative body may expend funds allocated to each county from the Transportation Fund under rules made by the department.

(6) A county legislative body may use any portion of the class B road funds provided by this chapter for the construction and maintenance of class A state roads by cooperative agreement with the department.

(7) A county may enter into agreements with the appropriate federal agency for the use of federal funds, county road funds, and donations to county road funds to construct, improve, or maintain county roads within or partly within national forests.

Formerly Appeared as 27-12-22; Amended & Renumbered by L. 1998

72-3-104. City streets - Class C roads - Construction and maintenance.

(1) City streets comprise:

(a) highways, roads, and streets within the corporate limits of the municipalities that are not designated as class A state roads or as class B roads; and

(b) those highways, roads, and streets located within a national forest and constructed or maintained by the municipality under agreement with the appropriate federal agency.

(2) City streets are class C roads.

- (3) The municipal governing body has jurisdiction and control of the city streets within the municipality.
- (4) The department shall cooperate with the municipal legislative body in the construction and maintenance of the class C roads within each municipality.
- (5) The municipal legislative body shall expend or cause to be expended upon the class C roads the funds allocated to each municipality from the Transportation Fund under rules made by the department.
- (6) Any town or city in the third class may:
 - (a) contract with the county or the department for the construction and maintenance of class C roads within its corporate limits; or
 - (b) transfer, with the consent of the county, its:
 - (i) class C roads to the class B road system; and
 - (ii) funds allocated from the Transportation Fund to the municipality to the county legislative body for use upon the transferred class C roads.
- (7) A municipal legislative body of any municipality of the third class may use any portion of the class C road funds allocated to the municipality for the construction of sidewalks, curbs, and gutters on class A state roads within the municipal limits by cooperative agreement with the department.

Formerly Appeared as 27-12-23; Amended & Renumbered by L. 1998

72-3-107. County executive to keep plats of roads and highways.

- (1) The county executive of each county shall determine all county roads existing in the county and prepare and keep current plats and specific descriptions of the county roads.
- (2) The plats and specific descriptions shall be kept on file in the office of the county clerk or recorder.

Formerly Appeared as 27-12-26; Amended & Renumbered by L. 1998

72-6-108. Class B and C roads - Improvement projects - Contracts - Retainage escrow.

- (1) A county executive for class B roads and the municipal executive for class C roads shall cause plans, specifications, and estimates to be made prior to the construction of any improvement project, as defined in Section 72-6-109, on a class B or C road if the estimated cost for any one project exceeds the bid limit as defined in Section 72-6-109 for labor, equipment, and materials.
- (2) (a) All projects in excess of the bid limit shall be performed under contract to be let to the lowest responsible bidder.
- (b) If the estimated cost of the improvement project exceeds the bid limit for labor, equipment, and materials, the project may not be divided to permit the construction in parts, unless each part is done by contract.
- (3) The advertisement on bids shall be published in a newspaper of general circulation in the county in which the work is to be performed at least once a week for three consecutive weeks. If there is no newspaper of general circulation, the notice shall be posted for at least 20 days in at least five public places in the county.
- (4) The county or municipal executive or their designee shall receive sealed bids and open the bids at the time and place designated in the advertisement. The county or municipal executive or their designee may then award the contract but may reject any and all bids.
- (5) The person, firm, or corporation that is awarded a contract under this section is subject to the provisions of Title 63, Chapter 56, Utah Procurement Code.

- (6) (a) If any payment on a contract with a private contractor for construction or improvement of a class B or C road is retained or withheld, the payment shall be placed in an interest-bearing account. The interest shall accrue for the benefit and payment to the contractor and subcontractors after the project is completed and accepted by the county or municipal executive.
- (b) The contractor shall ensure that any interest accrued on the money retained is distributed by the contractor to subcontractors on a pro rata basis.

Formerly Appeared as 27-12-108.1; Amended & Renumbered by L. 1998

72-6-109. Class B and C roads - Construction and maintenance - Definitions - Estimates lower than bids - Accountability.

(1) As used in this section and Section 72-6-108:

(a) "Bid limit" means \$100,000.

(b) (i) "Construction" means the work that would apply to:

(A) any new roadbed either by addition to existing systems or relocation;

(B) resurfacing of existing roadways with more than two inches of bituminous pavement; or

(C) new structures or replacement of existing structures, except the replacement of drainage culverts.

(ii) "Construction" does not include maintenance, emergency repairs, or the installation of traffic control devices as described in Section 41-6-20.

(c) "Improvement project" means construction and maintenance as defined in this section except for that maintenance excluded under Subsection (2).

(d) "Maintenance" means the keeping of a road facility in a safe and usable condition to which it was constructed or improved, and includes:

(i) the reworking of an existing surface by the application of up to and including two inches of bituminous pavement;

(ii) the installation or replacement of guardrails, seal coats, and culverts;

(iii) the grading or widening of an existing unpaved road or flattening of shoulders or side slopes to meet current width and safety standards; and

(iv) horizontal or vertical alignment changes necessary to bring an existing road in compliance with current safety standards.

(e) "Project" means the performance of a clearly identifiable group of associated road construction activities or the same type of maintenance process, where the construction or maintenance is performed on any one class B or C road, within a half-mile proximity and occurs within the same calendar year.

(2) The following types of maintenance work are not subject to the contract or bid limit requirements of this section:

(a) the repair of less than the entire surface by crack sealing or patching; and

(b) road repairs incidental to the installation, replacement, or repair of water mains, sewers, drainage pipes, culverts, or curbs and gutters.

(3) (a) (i) If the estimates of a qualified engineer referred to in Section 72-6-108 are substantially lower than any responsible bid received or in the event no bids are received, the county or municipality may perform the work by force account.

(ii) In no event shall "substantially lower" mean estimates that are less than 10% below the lowest responsible bid.

(b) If a county or municipality performs an improvement project by force account, it shall:

(i) provide an accounting of the costs and expenditures of the improvement including material, labor, and direct equipment costs to be calculated using the Cost Reference Guide for Construction Equipment by Dataquest Inc.;

- (ii) disclose the costs and expenditures to any person upon request and allow the person to make a copy and pay for the actual cost of the copy; and
- (iii) perform the work using the same specifications and standards that would apply to a private contractor.

Formerly Appeared as 27-12-108.2; Amended & Renumbered by L. 1998

72-6-110. Supervision and standards of construction for class B and C roads.

- (1) All construction plans, specifications, and estimates and all construction work under Section 72-6-108 shall be prepared and performed under the direct supervision of a registered professional engineer.
- (2) The supervising engineer shall certify to the county legislative body or the municipal executive that all road construction projects conform to design and construction standards as currently adopted by the American Association of State Highway and Transportation officials.

Formerly Appeared as 27-12-108.3; Amended & Renumbered by L. 1998

72-7-106. Gates on B system county highways.

- (1) The county executive of any county may provide for the erection and maintenance of gates on the B system county highways in order to avoid the necessity of building highway fences.
- (2) The person for whose immediate benefit the gates are erected or maintained shall in all cases bear the expense.
- (3) Nothing contained in Section 72-7-105 shall be construed to prohibit any person from placing any unlocked, nonrestrictive gate across any B system county highway, or maintaining the same, with the approval of the county executive of that county.
- (4) A gate may not be allowed on any B system county highways except those gates allowed by the county executive in accordance with the provisions of this section. If the expense of the erection and maintenance of the allowed gates is not paid or if any lock or other device is placed upon the gates so as to make them restrictive, the county executive of that county shall notify the responsible party that their approval is terminated and the gate shall be considered to be an obstruction pursuant to Section 72-7-105.
- (5) The placement or maintenance of gates with the consent of the county executive across B system county highways for the statutory period of time does not constitute or establish an abandonment by the county and does not establish an easement on behalf of the person establishing the gate.
- (6) A person who commits any of the following acts is guilty of a class B misdemeanor and is liable for any and all damages suffered by any party as a result of the acts:
 - (a) leave open any gate, erected or maintained under this section;
 - (b) unnecessarily drive over the ground adjoining the highway on which the a gate is erected;
 - (c) place any lock or other restrictive device on a gate; or
 - (d) violate any rules or regulations of any county legislative body relating to the gates within the county.
- (7) The provisions of this section relating to maintenance and removal of gates over B system county highways applies retrospectively to all gates in existence on April 1, 1976.

Formerly Appeared as 27-12-138.5; Amended & Renumbered by L. 1998

72-8-101. Title.

This chapter is known as the "Pedestrian Safety and Facilities Act."

Formerly Appeared as 27-14-1; Amended & Renumbered by L. 1998

72-8-102. Definitions.

As used in this chapter:

- (1) "Construction" means the function of constructing or reconstructing a sidewalk with or without curb and gutter and includes land acquisition and engineering or inspection as defined by the rules and regulations of the department.
- (2) "Curb and gutter" means the area between the roadway and sidewalk designed for water runoff and providing a barrier for safety of pedestrian and vehicular traffic.
- (3) "Participating municipality" means any municipality having at least third class status.
- (4) "Pedestrian safety devices" means any device or method designed to foster the safety of pedestrian traffic including sidewalks, curbs, gutters, and pedestrian overpasses.

Formerly Appeared as 27-14-3; Amended & Renumbered by L. 1998

72-8-103. Designated county and municipal sidewalks - Construction on easements granted by transportation department.

- (1) All sidewalks, including curbs and gutters within the unincorporated areas of a county and within nonparticipating municipalities situated within the county, are designated county sidewalks. All sidewalks within participating municipalities are designated municipal sidewalks.
- (2) Counties and participating municipalities may construct and maintain curbs, gutters, sidewalks, and pedestrian safety devices adjacent to the traveled portion of state highways upon easements that may be granted by the department. The department shall cooperate with counties and participating municipalities to accomplish pedestrian safety construction and maintenance.
- (3) A county or municipality may construct and maintain pedestrian safety devices on state highways in compliance with rules made by the department.

Formerly Appeared as 27-14-1; Amended & Renumbered by L. 1998

72-8-104. Funding priorities by county and municipality officials - Factors.

- (1) A county or municipality may use a portion of their B and C road funds for pedestrian safety devices under this part.
- (2) The county legislative body of the counties and the governing officials of participating municipalities may establish funding priorities relating to construction of curbs, gutters, sidewalks, or other pedestrian safety construction, with funds permitted to be expended by this part, based on factors including, but not limited to:
 - (a) existing useable rights-of-way;
 - (b) vehicle-pedestrian accident experience;
 - (c) average daily vehicle traffic;
 - (d) average daily pedestrian traffic;
 - (e) average daily school age pedestrian traffic; and
 - (f) speed of vehicle traffic.
- (3) All construction performed under this part shall be barrier free to wheelchairs at crosswalks and intersections.

Formerly Appeared as 27-14-5; Amended & Renumbered by L. 1998

72-8-105. Pedestrian safety to be considered in highway planning.

A highway authority shall consider pedestrian safety in all highway engineering and planning where pedestrian traffic may be a significant factor on all projects within the state or any of its political subdivisions.

Formerly Appeared as 27-14-6; Amended & Renumbered by L. 1998

72-8-106. Rules and regulations - Cooperation with the county legislative body.

The department shall:

- (1) make rules providing for uniform accounting of the funds permitted to be expended for curbs, gutters, sidewalks, and pedestrian safety devices, as provided in this part; and
- (2) cooperate with the county executives and county legislative bodies and the governing officials of participating municipalities in order to implement this part and make rules required by this part.

Formerly Appeared as 27-14-7; Amended & Renumbered by L. 1998

72-8-107. County or city granting exemption from construction - Not eligible to utilize funds under part.

- (1) This part may not be construed to substitute or replace the construction of curbs, gutters, sidewalks, or pedestrian safety devices by any counties or participating municipalities. Funds expended under this part are in addition to funds normally used by counties and participating municipalities for pedestrian safety devices and may not be used in substitution for local funding.
- (2) If any county or participating municipalities or any of their agencies grant an exemption or deferral agreement for the construction of sidewalks, curbs, gutters, or pedestrian safety devices which are otherwise normally required, the area for which the exemption or deferral agreement applies is not be eligible to utilize funds permitted to be expended by this part.

Formerly Appeared as 27-14-8; Amended & Renumbered by L. 1998

**Agreement for Erection and Maintenance
of Gates on County Class B Roads**

(For use with Utah State Code Sec. 72-7-106)

THIS AGREEMENT, between _____ County of the State of Utah hereinafter called "County" first party and _____ hereinafter called "Applicant" a second party.

WITNESSETH:

1. In accordance with the provisions of Section 26-12-138.5 Utah Code Annotated 1953, the County hereby grants permission to the Applicant to construct and maintain a gate across an existing county road at the following described location: _____

2. The Applicant agrees to bear all expenses of erection and maintenance of said gate.
3. The gate shall be non-restrictive as to use and unlocked at all times.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their proper duly authorized officers.

By County:

By Applicant:

Date _____

Date _____

Commission Chair

Commissioner

Commissioner

Copy to :

UDOT B & C Administrator
UDOT Region Director

R-368C Mar.-95